

BILL ANALYSIS

Senate Research Center

H.B. 371
By: Farabee (West)
Jurisprudence
5/19/2005
Engrossed

AUTHOR'S/SPONSOR'S STATEMENT OF INTENT

H.B. 371 reduces the amount of liquidated damages for which a seller of real property is liable to a \$250 liquidated damage for each annual statement that the seller fails to provide the purchaser and the lesser of \$250 a day for each day after date the seller receives the request that the seller does not provide the statement or the purchase price of the property. H.B. 371 also requires contractual notice to be given and provides remedies to a purchaser who does not timely receive an annual statement required by law.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends the heading to Section 5.077, Property Code, as follows:

Sec. 5.077. ANNUAL ACCOUNTING STATEMENT; DAMAGES; CONTRACTUAL NOTICE REQUIRED.

SECTION 2. Amends Section 5.077, Property Code, by amending Subsection (c) and adding Subsections (d) and (e), as follows:

(c) Provides that a seller who fails to comply with Subsection (a) is liable to the purchaser for liquidated damages in the amount of \$250 for each annual statement the seller fails to provide to the purchaser within the time required by Subsection (a). Deletes existing text relating to liquidated damages in the amount of \$250 a day for each day after January 31 and an [annual] statement.

(d) Authorizes the purchaser, after January 31 of a year in which a statement is required under Subsection (a), to request in writing that the seller provide the statement required under that subsection. Provides that a request for a statement or accounting with respect to the executory contract or any similar request is presumed to be a request required by Subsection (a). Provides that if the seller does not provide the statement to the purchaser on or before the 14th day after the date the seller receives the request, in addition to the liability imposed by Subsection (c), the seller is liable to the purchaser for liquidated damages in the amount of the lesser of a certain sum.

(e) Requires the executory contract to include a provision that states certain information and lists certain items.

SECTION 3. Makes application of this Act prospective.

SECTION 4. Effective date: September 1, 2005.